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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,437	01/14/2005	Richard Gray	39619-212377	8959
26694	7590	09/17/2007	EXAMINER	
VENABLE LLP			SOOHOO, TONY GLEN	
P.O. BOX 34385			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20043-9998			1723	
MAIL DATE		DELIVERY MODE		
09/17/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/521,437	GRAY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Tony G. Soohoo	1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 January 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. .

#### Disposition of Claims

- 4) Claim(s) 31-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 31-50 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1-14-05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 31-37; 41, 44 , 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy et al 3236457.

The Kennedy document (cited on the IDS) discloses an apparatus and method of operation with two containers 56, 56,; cartridge at generally the upper part of collar 61, and 59 which accepts the containers 56, 56, , figures 8-13; a head generally 63, 64, with lever 76. With regards to claim 33 the claim language is narrative to the operation of the device, it is noted that the top of the lever portion of the head releases the contents. Note that the head has a plenum as seen in figure 13, or figure 2, which provides a common outlet of the mixture of the contents of the containers.

2. Claims 31-50 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19911776 (note: the English language US pregnant publication 2002/0048693 is of the same family of the DE document (Merck).)

The DE '776 document (cited on the IDS) discloses an apparatus and method of operation two containers A', A; a cartridge generally at B, C, a collar F, a base, E for holding the containers A', A; and a head at the upper part of generally B, C, which presents a lever section at the top of the head in which releases the contents of each container via the pathway b, b, through a mixing channel c ,

formed with crossing or overlapping sections which is deemed to present columns of an oval or finlike shape between passages.

3. Claims 31-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Gueret 4773562.

The Gueret document discloses an apparatus and method of operation two containers 2a, 2b, A; a cartridge generally at 4, 15, , a collar 19, a base 8 for holding the containers; and a head generally at the upper part of 4, at 29, 14, 17, which presents a lever section at the top of the head in which may be pushed to release the contents of each container via the pathway at 34, 23, 122, 123, and as seen in figure 6, a pathway 256 to the outlet 255, 225 with the fins 236 within the mixing channel 255, 225 which protrude from the channel walls.

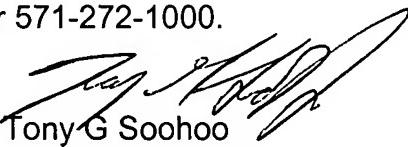
### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following discloses the use of fins, columns in a mixing flow path, Larsen 6241379. The Lasserre et al 2002/0117516 document discloses the use of a static mixer in an cartridge dispenser. The following discloses dispensers with flow passages: Safianoff 3575319, Hildebrandt et al 6305578, Skorka et al 4826048, Favre 5611463, Harman 6308863, Jinbo et al 6834778.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 8AM-5PM,Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tony G Soohoo  
Primary Examiner  
Art Unit 1723